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December 30, 2024

VIA EMAIL

The Honorable Rachel P. Kovner
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Takhara Smith v. All Capital Motors et al.

Docket No. 22-CV-5566

Dear Judge, Kovner:

This letter is submitted jointly by the parties as a Pretrial Order in the above-referenced matter¹. The parties respectfully submit the following summary of the issues and key details as we prepare for trial.

Caption:

Takhara Smith (Plaintiff)

v.

All Capital Motors Inc. and Westlake Services LLC d/b/a Westlake Financial Services,
(Defendant).

Parties and Counsel:

Takahara Smith
(Pro-Se)
546 Dawson St.

Hattiesburg MS 39401

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Counsel for Defendants

All Capital Motors Inc. and Westlake Services LLC d/b/a Westlake Financial Services,

Jurisdiction:

The court has jurisdiction, pursuant to 28 U.S.C. 1331, 15 U.S.C. §1640, 15 U.S.C. §1681n; U.S.C. 1861o; and 15 U.S.C. §1961e

Plaintiff's alleged violations of the federal truth and lending act; fair credit reporting Act; equal The Court also have diversity jurisdiction under U.S.C. §1332, as Plaintiff resides in the State of Texas and no defendant resides in said state.

The parties hereto request a bench trial and the needed length is two days.

The Parties hereto consent to trial by a magistrate.

Statement of Relief Sought:

Plaintiff, Smith believes that there is a discrepancy of \$2,700 to which the additional fees have not been disclosed to her, by Defendant. Moreover, Plaintiff believes that there are multiple contracts which she did not sign and were thus forged. Defendants defense, is that all prices were disclosed and also solidified days later on a recorded line. Lastly, Defendant will provide ink signed contracts, as exhibits at the time of trial demonstratively showing that Plaintiff signed the documents and knew how much she was taking out on a loan.

Plaintiff's Position:

Plaintiff, Takhara Smith, contends that she purchased an automobile from Defendant, All Capital Motors, at an advertised price of \$15,800, but the car was sold to her for \$18,500. Plaintiff asserts that this conduct constitutes a violation of several federal statutes, including the **Truth in Lending Act (TILA)**, **Fair Credit Reporting Act (FCRA)**, **Equal Credit Opportunity Act (ECOA)**, and common law fraud. Plaintiff argues that Defendant failed to properly disclose the final purchase price of the vehicle and misrepresented the financing terms.

Defendant's Position:

Defendant, All Capital Motors, denies any fraudulent conduct or wrongdoing. Defendant asserts that the automobile was properly serviced prior to delivery, and all applicable and disclosed fees were assessed before delivery, as required by law. Additionally, Defendant argues that Westlake Financial Services, the financing company, contacted Plaintiff shortly after she took possession of the automobile, prior to funding the deal, to review and confirm the terms of the loan, which Plaintiff subsequently agreed to and ratified the terms previously agreed to.

Plaintiff's Position:

It is Plaintiff's position that multiple RICs (Retain Installment Contract) and Buyer Orders, each containing alleged different calculations and alleged multiple forged signatures, were involved in the disputed transactions. Plaintiff's claim that the documents in question were tampered with to mislead and defraud.

Witnesses and Evidence/Deposition Testimony:

Plaintiff:

None

Defendant:

Defendant plans to present testimony from Mr. Othman Othman, the owner of All Capital Motors, and Abdul Atiya, who will testify to the standard practices of car financing and the terms of the deal in question. Defendant will also introduce audio recordings and the sales file as evidence to support its defense. Moreover, Defendant does not intend to utilize deposition testimony in its case chief and/or cross/

Motions in Limine:

Plaintiff:

None

Defendant:

Defendant does not intend to file any motions in limine.

Trial Length:

The trial is expected to last **two days**.

Stipulation of Facts:

Plaintiff Purchased a 2016 Nissan Maxima with 69,911 miles on it from All Capital Motors in Brooklyn New York, with an address of 1945 Utica Avenue Brooklyn New York 11234 (VIN 1N4AA6AP6GC413099) on September 24, 2021. The automobile was financed through Westlake Financial whom called and confirmed the terms of the loan, immediately after Plaintiff took delivery of the vehicle. Plaintiff financed 17,436.65 from Westlake Financia. With an agreed upon monthly payment of 482.15; which Plaintiff defaulted upon.

Schedule of Exhibits:

Plaintiff:

1. Car Guru Listing
2. Deal Sheet, and Contracts.

Defendant:

Exhibit 1: Credit Application

Exhibit 2: Retail Installment Contract (Signed)

Exhibit 3: Customer Deposit Receipt (Signed)

Exhibit 4: Lemon Law Notice (Signed)

Exhibit 5: Power of Attorney (Signed)

Exhibit 6: NYS Department of Motor Vehicles (Registration Form) and Payment

Exhibit 7: Car Fax

Exhibit 8: Takhara Smith's License

Exhibit 9: Damage Disclosure Statement (Signed)

Exhibit 10: Retail Certificate of Sale Receipt (Signed)

Exhibit 11: Insurance Documents

Exhibit 12: December 29th letter stating that Plaintiff breached her obligations pursuant to the finance agreement.

Exhibit 13: Mississippi Lien Documents dated 10/15/21 (Signed)

Exhibit 4. Ohio Title for Vehicle.

Settlement Efforts:

The parties have made several attempts to settle this matter, with Defendant offering reasonable settlement terms. Unfortunately, the parties remain too far apart to reach a resolution. We respectfully request that the Court review this Pretrial Order in preparation for the upcoming trial. If the Court requires any additional information or clarification, we are happy to provide it. Thank you for your time and attention to this matter.

Sincerely,

Jeremy M. Iandolo, Esq. /s/

& Takara Smith²

² Defense Counsel spoke with Plaintiff Smith via telephone on December 30, 2024 at 3:06 pm (9 min and 13 sec) by way of phone after multiple emails at the phone number of 228-596-7410